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NOV 29 2005

Kevin Brayton McGoff
Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

In re Application of: BRAGD et al. :
Appl. No.:09/651,127 : DECISION ON PETITION
Filed: August 30, 2000 :
For: ABSORBENT STRUCTURE IN AN :
ABSORBENT ARTICLE AND A METHOD :
OF PRODUCING IT :

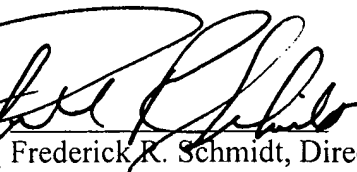
This is a decision on the petition filed on September 20, 2004 by which petitioner requests that the response date for the Office Action be reset, or alternatively that the Office Action be withdrawn and then re-issued with a new response date that will provide reasonable time to prepare a reply to the office action due to non-receipt of Office action via US Postal Service. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

It appears from the petition that the Office letter in question, mailed May 3, 2004, was never received by petitioner. This conclusion is reached based upon the evidentiary showing that accompanies the petition, which is persuasive that the Office letter in question was not received. In general, compare the requirements of the Notice published at 1156 OG 53 with respect to nonreceipt of Office correspondence.

Thus, it appears that petitioner is entitled to have the response date for the Office Action be reset. Accordingly, the application is being forwarded to the Head Supervisory Applications Examiner in Technology Center 3700 to have an entry in the PALM system made to show that the time period for response restarted concurrently with this decision. A copy of the May 3, 2004 Office Action is attached.

PETITION GRANTED



Frederick R. Schmidt, Director
Technology Center 3700

Attachments:
Copy of May 3, 2004 Office action/6 pages



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,127	08/30/2000	Petter Bragd	010315-089	1058

21839 7590 05/03/2004

BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

21

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/651,127

Applicant(s)

BRAGD ET AL

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 11, 12 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11, 12 and 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 24 February 2004 has been entered.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

The drawings were received on 24 February 2004. These drawings are accepted by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 11-12, and 14-17 rejected under 35 U.S.C. 103(a) as being unpatentable over Graef et al. (6,518,479) in view of Rezai et al. (5,713,881).

Art Unit: 3761

With respect to claims 1, 5, 14, 15, and 17, Graef discloses all aspects of the claimed invention with the exception of regenerated cellulose. Graef discloses an absorbent structure, as shown in figure 3, comprising a foam material which comprises two integrated layers 10 and 30, the layers being formed by placing one on top of the other before they are completely dry, as described in column 18, lines 1-33. The layers partially penetrate each other such that there is no clear partitioning between the layers, as described in column 6, lines 38-44. The layers have different pore sizes, as described in column 5, line 67 to column 6, line 3. The absorbent structure comprises cellulose, as described in column 7, line 38 to column 8, line 63.

Rezai discloses the use of regenerated rayon cellulose, or viscose, in an absorbent article, and further discloses compression of the cellulose, in order to provide a higher liquid wicking rate, as described in column 21, lines 18-25.

It would have been obvious to one of ordinary skill in the art at the time of invention to make the cellulose material of Graef compressed regenerated viscose cellulose, as taught by Rezai, to provide a higher liquid wicking rate.

With respect to claim 2, the foam material also contains superabsorbent materials, as disclosed in column 8, lines 64-66.

With respect to claim 3, each layer comprises a different amount of superabsorbent material, as disclosed in column 6, lines 15-17.

With respect to claim 4, the layer that has the smallest pore size, as disclosed in column 5, line 65 to column 6, line 1, has the highest amount of superabsorbent material, as disclosed in column 6, lines 15-17.

With respect to claim 6, the foam material of the layers comprises different polymers, as disclosed in column 18, lines 14-17.

With respect to claim 11, Graef discloses an absorbent article comprising a liquid permeable topsheet 16, a liquid impermeable backsheet 18, and an absorbent structure therebetween, as shown in figure 7.

With respect to claims 12 and 16, the absorbent article is a diaper, sanitary napkin, or incontinence guard, as disclosed in column 15, lines 9-13.

Response to Arguments

Applicant's arguments with respect to claims 1-6, 11-12, and 14-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Application/Control Number: 09/651,127
Art Unit: 3761

Page 5

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CUA
cla
April 26, 2004


JOHN J. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Notice of References Cited

Application/Control No.

09/651,127

Applicant(s)/Patent Under
Reexamination
BRAGD ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,518,479	02-2003	Graef et al.	604/383
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(e).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

FEB 24 2004

Complete if Known

SECOND INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 1 of 2

Application Number 09/651,127
Filing Date August 30, 2000
First Named Inventor Petter BRAGD et al.
Examiner Name J. A. Webb
Attorney Docket Number 010315-089

FEB 27 2004

U.S. PATENT DOCUMENTS

TECHNOLOGY CENTER R3700

Examiner Initials	Document Number	Kind Code (if known)	Name of Patentee or Applicant of Cited Document	Issue/Publication Date (MM-DD-YYYY)
WJA	3,122,140		Crowe, Jr.	02-25-1964
	3,301,257		Crowe, Jr., et al.	01-31-1967
	3,545,441		Gravdahl	12-08-1970
	3,598,742		Jamison et al.	08-10-1971
	4,104,435		Ballesteros	08-01-1978
	4,239,043		Gellert	12-16-1980
	4,394,930		Korpman	07-26-1983
	4,902,565		Brook	02-20-1990
	4,957,810		Eleouet et al.	09-18-1990
	4,985,467		Kelly et al.	01-15-1991
	5,147,345		Young et al.	09-15-1992
	5,260,345		DesMarais et al.	11-09-1993
	5,338,766		Phan et al.	08-16-1994
	5,506,035		Van Phan et al.	04-09-1996
	5,550,189		Qin et al.	08-27-1996
	5,718,916		Scherr	02-17-1998
	5,795,923		Dyer et al.	08-18-1998
	5,817,081		LaVon et al.	10-06-1998
	6,033,769		Brueggemann et al.	03-07-2000
	6,093,870		Carlsson	07-25-2000
	6,103,358		Brüggemann et al.	08-15-2000
	6,136,873		Hähnle et al.	10-24-2000
	6,261,679	B1	Chen et al.	07-17-2001
	6,657,101	B1	Malmgren et al.	12-02-2003
	6,673,981	B1	Strömborn et al.	01-06-2004

FOREIGN PATENT DOCUMENTS

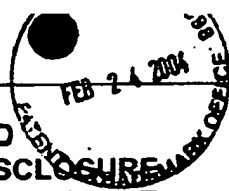
Examiner Initials	Document Number	Kind Code (if known)	Country	Date of Publication (MM-DD-YYYY)	Translation	
					Yes	No
WJA	9801694-2		Sweden (abst only)	11-13-1999		X
	19540951	A1	Germany	05-07-1997	Abst	
	0 044 624	B1	EPO	10-31-1984		
	0 212 618	B1	EPO	06-10-1992		
	0 478 011	B1	EPO	10-19-1994		
	0 532 002	B1	EPO	05-14-1997		
	0 598 833	B1	EPO	10-29-1997		
	0 747 420	A1	EPO	12-11-1996		
	93/04092	A1	WO	03-04-1993		
	94/00512	A1	WO	01-06-1994		
	94/22502	A1	WO	10-13-1994		
	95/31500	A2	WO	11-23-1995		
	96/16624	A2	WO	06-06-1996		
	97/32612	A1	WO	09-12-1997		
	98/55540	A1	WO	12-10-1998		

Examiner Signature

Date Considered

4/26/04

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with M.P.E.P. § 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.



SECOND INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 2 of 2

Complete if Known

Application Number	09/651,127
Filing Date	August 30, 2000
First Named Inventor	Petter BRAGD et al.
Examiner Name	J. A. Webb
Attorney Docket Number	010315-089

FEB 27 2004

NON-PATENT LITERATURE DOCUMENTS

TECHNOLOGY CENTER R3700

Examiner Initials	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.
WAA	Kent Malmgren et al., U.S. Patent Application No. 09/651,130, entitled "Absorbent Foam Material and an Absorbent Structure Containing Said Foam Material" filed August 30, 2003.

Examiner
Signature

Date
Considered

4/26/04

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with M.P.E.P. § 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.